



LAW OFFICES OF  
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*Via Electronic Case Filing Only*

July 10, 2023

Honorable P. Kevin Castel, U.S.D.J.  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Schottenstein et al. v. FDA et al., Capla et al., and  
Orthogen International GmbH et als.; 1:22-cv-10883-PKC;*

First Request for an extension of time to respond to Pre-Motion Letter

Dear Judge Castel:

The undersigned together with Richard Bruce Rosenthal, Esq. and Jeffrey A. Donner, Esq. represent plaintiffs Douglas Schottenstein, MD and Schottenstein Pain and Neuro, PLLC d/b/a NY Spine in the captioned matter. I write to respectfully request an additional week, until July 20th, 2023, to respond to a Pre-Motion letter filed by defendants Orthogen International GmbH, Peter Wehling, Nina Breidenbach, and Peter Niederau for which there is no pending conference date set by this Honorable Court.

As of Friday, July 7, 2023, we are in receipt of the Pre-Motion Letter submitted by Christopher B. Harwood, Esq. on behalf of the defendants Orthogen International GmbH, Peter Wehling, Nina Breidenbach, and Peter Niederau concerning his intention to file a Motion to Dismiss the Verified Amended Complaint. Plaintiffs' Letter is submitted in accordance with your Honor's Individual Practices in Civil Cases, Section 1.C. requesting an Extension of Time to respond to the Pre-Motion Letter.

In response to the respective subsections of Section 1.C. of Your Honor's Individual Practice Rules, plaintiffs state as follows:

- i. The extension of time sought is from Thursday, July 13<sup>th</sup>, 2023 to Thursday, July 20<sup>th</sup>, 2023;

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- ii. Due to prior arrangements, inclusive of responding to the June 30, 2023, Pre-Motion Letter submitted by Matthew A. Ford, Esq. (on behalf of the defendants Edward and Yolanda Capla), counsel did not anticipate the subject Pre-Motion Letter, which presents six (6) pages of issues. Counsel requires sufficient time to engage in a detailed review to investigate the merit, if any, of the points raised, to prepare an appropriate response, and to determine whether leave to amend should be sought in the Response, in accordance with Section 3.A.iv. of Your Honor's Individual Practice Rules;
- iii. There has been no prior adjournment or extension of the aforesaid date either sought or granted; and
- iv. Adversary counsel, Mr. Harwood, stated that he does not oppose the requested Extension of Time to Respond with the understanding that plaintiffs will consent to extend the deadline for his motion to dismiss on a date convenient to all the parties.

For the foregoing reasons, we respectfully request that the Extension of Time be granted, and thank your Honor in advance for the Court's consideration of this Request.

Respectfully submitted,

  
Cory H. Morris, JD MA  
LAW OFFICES OF CORY H. MORRIS

*Co-Counsel for Plaintiffs  
Douglas Schottenstein and  
Schottenstein Pain and Neuro, PLLC  
d/b/a NY Spine*

cc: Counsel of Record via CM/ECF